

## **ZONING BOARD OF APPEALS MEETING MINUTES**

**OCTOBER 2, 2006**

**PRESENT:** Mary Cardin, Kenneth Braga (left at 8:29 p.m.), Mark Spurling, Robert Palozej, William Harford (arrived at 7:08 p.m.) and Alternate Ronald Stomberg

**ABSENT:** Aaron Rossow and Alternates Joseph Snyder and Robert Wambolt (per his attorney's suggestion, Commissioner Wambolt left the meeting after his hearing)

### **STAFF**

**PRESENT:** Lisa Houlihan, Zoning Enforcement Officer (ZEO) and Reanna Goodreau, Recording Secretary

### **I. CALL TO ORDER:**

Chairman Cardin called the Zoning Board of Appeals (ZBA) meeting to order at 7:05 p.m. at the Ellington Town Hall Annex, 57 Main Street, Ellington, CT.

### **II. PUBLIC COMMENTS: NONE**

### **III. PUBLIC HEARINGS:**

1. #V200619—Robert & Alberta Wambolt for an appeal of the Zoning Enforcement Officer's and/or the Town Planner's decision in a letter dated July 19, 2006 for apparently granting zoning permits listed as pending for a home occupation and temporary garage on property located at 104 Webster Road, APN 145-002-0000 and for a home occupation on property located at 97 Webster Road, APN 145-006-0000 in a RA Zone.

**TIME:** 7:06 p.m.

**SEATED:** M. Cardin, K. Braga, W. Harford, R. Palozej and R. Stomberg (Recused: M. Spurling)

Chairman Cardin noted the certificate of mailings.

Attorney Martin Burke, representing the applicant, came forward to review the appeal. He stated that his clients are appealing the decisions of the Town Planner and the Zoning Enforcement Officer (ZEO) based on a letter sent by the Town Planner on 7/19/06. Attorney Burke submitted and reviewed a packet known as "Exhibit A" that included a letters from the Wambolts to the Planner dated 6/13/06, and the ZEO dated 5/2/06, a letter dated 6/6/06 and a violation notice dated 5/30/06 to the Sanvilles, application forms and supporting information submitted by the

Sanvilles and sections of the Ellington Zoning Regulations. Attorney Burke noted that the permit for the home occupation at 97 Webster Road was approved, the zoning permit for a home occupation at 104 Webster Road was denied and the zoning permit for a storage shed at 104 Webster Road is still pending. Attorney Burke stated that he would like the board to enforce the paintball activity at 104 Webster Road, to direct the ZEO to deny the permit for the tent at 104 Webster Road since it is used for the business, to have the ZEO enforce the business operation at 104 Webster Road and to have the ZEO revoke the permit for home occupation at 97 Webster Road since it does not comply with the regulations.

Attorney Burke submitted photographs, known as "Exhibit B," taken by the Wambolts. Mrs. Wambolt read a condensed version of her daily logs regarding the activities she has observed at 97 & 104 Webster Road.

There was an extensive discussion regarding paintball. Attorney Burke noted that he had written an opinion regarding a paintball activity many years ago (1985) and noted that it was not a permitted use. Chairman Cardin stated that the opinion Attorney Burke had written regarding paintball activity was in reference to a "commercial" venture. Mr. Wambolt expressed his concern that there is protective wear, people trespass and the guns can be dangerous. Robert Sanville stated that he has had up to 23 friends over to play as a recreation. He stated that being a newer owner of the property he and his company were unaware at first of the boundaries of the property. He stated that when Mr. Wambolt spoke with him about trespassing that he defined the property line and asked his friends to refrain from going onto the Wambolt property. He stated that as of late he mostly plays at a friend's home in another location that is not in town.

Mr. Sanville stated that he has never denied that he uses his home at 97 Webster Road as his home office to run his scheduling and paperwork associated with his contracting business from. He stated that when he established his DBA with the Town that he thought proper permitting was present. Mr. Sanville stated that he purchased 104 Webster Road and has cleaned up the site from its past state and renovated the home to which he admits storing his business materials there.

Chairman Cardin noted that Commissioner Braga needed to leave due to an emergency. She suggested continuing the hearing to allow the commission the opportunity to hear from staff. Lisa Houlihan stated that an extension from the applicant was needed.

**MOVED (CARDIN), SECONDED (STOMBERG) AND PASSED UNANIMOUSLY TO CONTINUE #V200619—ROBERT & ALBERTA WAMBOLT TO THE NOVEMBER 6, 2006 MEETING.**

2. #V200621—Gene & Sue Sheehan for a variance to the Ellington Zoning Regulations, Section 3.2.1—Lot Area, Width & Yard Requirements: side yard setback from 15' to 5' for a 10' x 14' shed on property located at 75 Muddy Brook Road, APN 089-015-0000 in an AA Zone.

**TIME:** 8:30 p.m.

**SEATED:** M. Cardin, W. Harford, R. Palozej and R. Stomberg (Recused: M. Spurling)

Attorney Brian Smith, representing the applicant, submitted to packet of the various approvals for the shed.

Chairman Cardin noted the certificate of mailings and inquired about the broken sidewalk. Gene Sheehan stated that the sidewalk has been repaired.

Attorney Smith explained that the currently shed touches the side property line. He stated that the Sheehans had originally requested a variance to allow the shed to stay in the current location. After consulting with their contractors, the Sheehans realized that the only solution was to move the shed 5' from the property line. Attorney Smith noted that the property slopes, which is part of the hardship. He presented pictures of the existing conditions and noted that his client is proposing to plant arborvitaes along the property line.

Mr. Sheehan stated that he has tried several times to meet with his neighbor to present the new plan to him, but has been unsuccessful. He stated that in addition to planting the arborvitaes, he will also install a fence in back of the propane tank.

Chairman Cardin asked how far the shed was proposed to be from the property line when they applied for the zoning permit and Mr. Sheehan stated 10'. Lisa Houlihan, ZEO, stated that the previous ZEO issued the permit with the shed 12' from the property line, but the required distance should have been 15'.

**MOVED (PALOZEJ), SECONDED (HARFORD) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #V200621—GENE & SUE SHEEHAN.**

**MOVED (PALOZEJ), SECONDED (HARFORD) AND PASSED UNANIMOUSLY TO APPROVE WITH CONDITION #V200621—GENE & SUE SHEEHAN.**

**CONDITION: APPLICANT MUST PLANT ARBORVITAES AND COMPLY PLAN DATED 8/16/06**

**HARDSHIP: TOPOGRAPHY OF LOT & LOCATION OF SEPTIC SYSTEM**

3. #V200622—Ellington Auto Sales & Financing, LLC for variances to the Ellington Zoning Regulations, Sections 6.2.5 A, B & C—Location of Parking Facilities, Section 6.2.2 A—Description of Parking Facilities and Table 6.2.2—Parking Facility Standards: to allow parking of vehicles up to 5' from the front & side of the commercial building (required separation distance is 20') for customer & display vehicles; to allow parking up to the side property line (required separation is 15') for display vehicles; to allow parking up to the front property lines along West Road & Middle Butcher Road (required separation is 30') for customer & display vehicles; to allow a 20' width for feeder drives servicing the parking area (required width is 24') for customer & display vehicles; and to allow 8'x17' parking spaces (10'x18' is required) for display vehicles on property located at 85 West Road, APN 028-018-0000 in a C Zone.

**TIME:** 8:49 p.m.

**SEATED:** M. Cardin, W. Harford, M. Spurling, R. Palozej and R. Stomberg

Chairman Cardin noted certificate of mailings and read the 9/25/06 memo from the Fire Marshal and the note from the Traffic Authority.

Lisa Houlihan, ZEO, handed out a packet that included pertinent sections of the zoning regulations, the location approval issued by the ZBA in 2005, the site plan and photographs of existing conditions.

Attorney Paul Aparro, representing the applicant, came forward to explain the variance requests. He stated that his client's partner was in charge of permitting and his client was not aware that there was a limit on the number of vehicles for the site until he received the violation notice. Attorney Aparro reviewed the site plan, noting that there are two front yard setbacks. He pointed out the area allowed for structures and the area allowed for parking according to the regulations.

Commissioner Spurling asked what the hardship is since they are already allowed 15 spaces and Attorney Aparro stated that the lot size. Commissioner Spurling stated that it appeared that the hardship was particular to the use. Attorney Aparro explained that there are up to 20 people that visit the site each week, which is less than the gas station that the previously in the same location.

Commissioner Spurling noted his concern with the vehicles so close to the property, especially during plowing. Chris Eila, applicant, stated that there is grassed area with a curb between the state road and the property line.

Commissioner Palozej asked how that many cars got on the site. Attorney Aparro stated that his client moved cars from another site because of the dissolved partnership. Commissioner Spurling noted his concern with the amount of vehicles currently at the site.

Attorney Aparro stated that they were amenable to any conditions, understanding the ZBA's concerns. Chairman Cardin asked what the total number of proposed spaces and Attorney Aparro stated 26. He noted that if the propane tanks remain, they will have to lose 2 spaces in order to accommodate the Fire Marshal's requirements.

Mr. Elia didn't understand why the Middle Butcher Road entrance should be closed. He suggested that if any, the entrance closest to the intersection should be the one.

Chairman Cardin suggested continuing the hearing to allow the applicant to revise the plans to address the board's concerns. Chairman Cardin stated that she would be conducting a site visit.

Ms. Houlihan asked if the applicant considered using the property in the back for display or repair vehicles. Mr. Elia stated that he is discussing the option with the landowner.

**MOVED (CARDIN), SECONDED (SPURLING) AND PASSED UNANIMOUSLY TO CONTINUE #V200622—ELLINGTON AUTO SALES & FINANCING, LLC TO THE NOVEMBER 6, 2006 MEETING.**

**IV. UNFINISHED BUSINESS: NONE**

**V. NEW BUSINESS: NONE**

## **VI. ADMINISTRATIVE BUSINESS:**

The commission had a brief discussion regarding the lack of impervious surface requirements for residential zones. Ms. Houlihan stated that she would draft a regulation amendment for the board's review at the November meeting.

### **1. Discussion of Attendance**

Reanna Goodreau, Land Use Assistant, stated that she had reviewed the attendance policy for the appointed members and noted that Joe Snyder has not attended a meeting in 2 years.

Chairman Cardin was concerned about not having a full board at meetings, which is a disservice to the applicants.

**MOVED (CARDIN), SECONDED (SPURLING) AND PASSED UNANIMOUSLY TO REQUEST THAT THE BOARD OF SELECTMEN SEND A LETTER OF WARNING TO JOE SNYDER AND EXECUTE HIS REMOVAL FROM THE ZONING BOARD OF APPEALS, PURSUANT TO THE PROVISIONS OF THE ATTENDANCE POLICY OF APPOINTED BOARD/COMMISSION MEMBERS.**

### **2. Approval of the September 11, 2006 Meeting Minutes**

**MOVED (HARFORD), SECONDED (CARDIN) AND PASSED (ABSTAINED: R. PALOZEJ) TO APPROVE THE SEPTEMBER 11, 2006 MEETING MINUTES.**

### **3. Correspondence:**

- a. Cease & Desist Order at 99 Stafford Road to Scott & Jeremy Webber from Robert Phillips, dated 9/7/06
- b. Cease & Desist Order at 100 Windermere Avenue to Robert Juliano from Robert Phillips, dated 9/7/06

**SO NOTED.**

## **VII. ADJOURNMENT:**

**MOVED (PALOZEJ), SECONDED (SPURLING) AND PASSED UNANIMOUSLY TO ADJOURN THE MEETING AT 9:30 PM.**

Respectfully Submitted,

Reanna Goodreau  
Recording Secretary